

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**SIMONE JORDAN,**

**Plaintiff,**

**Case No. 05-CV-74362-DT**

**v.**

**HONORABLE DENISE PAGE HOOD**

**DEBRA DENNIS,**

**Defendant.**

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**ORDER ACCEPTING REPORT AND RECOMMENDATION**

The matter before the Court is Magistrate Judge Donald A. Scheer's Report and Recommendation dated July 31, 2006. Neither party filed objections to the Report and Recommendation. The Magistrate Judge recommended that this Court grant Plaintiff's Motion for Summary Judgment.

Upon review of the Report and Recommendation, the Court finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that Plaintiff has failed to establish violations of any of his federally secured constitutional rights. Specifically, the Magistrate Judge found that (1) Plaintiff is unable to show personal wrongdoing on the part of Defendant; (2) Plaintiff is unable to establish interference with access to the courts; and (3) Plaintiff has failed to establish a claim of retaliation.

Plaintiff's central allegation is that Defendant maliciously and intentionally failed to process a request to disburse money from his prisoner account to pay a Michigan Circuit Court filing fee. Defendant filed a Motion for Summary Judgment to which Plaintiff did not respond. The Court agrees with the Magistrate Judge that Plaintiff has failed to show malicious intent on the part of Defendant, as the St. Louis Correctional Facility ("SLF") staff immediately withdrew funds from

Plaintiff's prison account to pay the filing fee once the error was discovered. Secondly, the Court agrees that, because the state court accepted Plaintiff's pleadings for judicial review once the filing fee was paid, Plaintiff is unable to demonstrate interference with access to the courts. Lastly, the Magistrate Judge was correct in finding that Plaintiff's retaliation claim fails, as Plaintiff merely alleges that SLF prison officials failed to timely pay the filing fee, coupled with the fact that he previously filed a lawsuit and grievance against them. The Court gives weight to Defendant's unopposed affidavit that her actions were taken in good faith and thus finds that the Magistrate Judge correctly found that Plaintiff has failed to establish that his filing of the grievance was a substantial or motivating factor behind his treatment, as required for a retaliation claim.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Donald A. Scheer [**Docket No. 14, filed July 31, 2006**] is ACCEPTED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment [**Docket No. 10, filed May 18, 2006**] is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's First Amended Complaint is DISMISSED.

/s/ DENISE PAGE HOOD  
DENISE PAGE HOOD  
United States District Judge

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 27, 2006, by electronic and/or ordinary mail.

DATED: November 27, 2006

S/William F. Lewis  
Case Manager